

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Truth-in-Billing and Billing Format	)	CC Docket 98-170
	)	

To: The Commission

**COMMENTS OF RURAL CELLULAR ASSOCIATION**

The Rural Cellular Association ("RCA")<sup>1</sup>, by its attorneys, hereby submits its comments on the Further Notice of Proposed Rulemaking ("FNPR") in the above-referenced proceeding.<sup>2</sup> The FNPR seeks comment on whether the Federal Communications Commission ("FCC" or "Commission") should apply its detailed truth-in-billing rules to Commercial Mobile Radio Service ("CMRS") providers.

In the First Report and Order ("FRO") issued simultaneously with the FNPR, the Commission concluded that the detailed rules were inapplicable and unnecessary in the CMRS

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<sup>1</sup> RCA is an association representing the interests of small and rural wireless licensees providing commercial services to subscribers throughout the nation. Its member companies provide service in more than 100 rural and small metropolitan markets where approximately 13 million people reside. Formed in 1993 to address the distinctive issues facing rural cellular service providers, the membership of RCA currently includes rural PCS carriers, as well.

<sup>2</sup> First Report and Order and Further Notice of Proposed Rulemaking, rel. May 11, 1999, 64 Fed. Reg. 34488 (June 25, 1999).

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environment. The Commission is seeking to confirm or repudiate its conclusion. RCA, on behalf of its membership, reports that nothing has changed to alter the FCC's conclusion that for practical and policy reasons, the detailed billing rules should not be applied to CMRS providers.<sup>3</sup>

## **BACKGROUND**

Two months ago, the Commission declined to apply to CMRS providers the detailed truth-in-billing requirements that were deemed appropriate for wireline carriers because it found that those requirements did not make sense in the CMRS context. Specifically, the Commission found that the practices of CMRS providers neither engage in nor facilitate slamming, the practice the requirements were designed to address. Furthermore, the Commission found that because CMRS providers do not bill for third party service, they could not provide subscribers the kind of billing information required under the rules. Given these findings, the Commission determined that it did not make sense to apply the rules to CMRS providers.

The FCC ordered all telecommunications common carriers - wireline and wireless - to comply with general billing requirements, such as clearly identifying the service provider associated with each charge, conspicuously disclosing the party to contact for inquiries or complaints about the bill, and providing a toll-free number for such inquiries. These general requirements serve to provide basic information to consumers, information which typically is provided already by a majority of carriers.

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<sup>3</sup> Newly enacted Sections 64.2001(a)(2), 64.2001(b), and 64.2001(c) of the Commission's rules, 47 C.F.R. §§ 64.2001(a)(2), 64.2001(b), and 64.2001(c).

In contrast, the billing requirements that the Commission applied to wireline carriers only, and which are at issue in this proceeding, require detail about services provided by third parties that would be impossible for CMRS providers to provide. They include: alerting customers when a "new service provider" has been added to their bill, and identifying those charges, which if not paid, could lead to disconnection of service. As RCA and others reported, and the Commission agreed, these requirements do not make sense as applied to wireless providers.

**NOTHING HAS CHANGED TO WARRANT APPLICATION OF THE DETAILED TRUTH-IN-BILLING REQUIREMENTS TO CMRS PROVIDERS**

In the interim since the Commission issued its findings in the FRO or since the compilation of the record upon which the Commission's findings were based, no change has occurred which would warrant a reversal of the Commission's conclusions. Accordingly, the Commission should reiterate its findings, and order that the detailed billing requirements not be applied to CMRS providers.

In its First Report and Order, the Commission stated:

The record does not . . . reflect the same high volume of customer complaints in the CMRS context, nor does the record indicate that CMRS billing practices fail to provide consumers with the clear and non-misleading information they need to make informed choices. If current billing practices are clear and non-misleading to consumers, then it might be appropriate either to forbear from specific wireline rules or not to apply them in the first instance. Furthermore, in some instances, the rules we have adopted might simply be inapplicable in the wireless context.<sup>4</sup>

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<sup>4</sup> First Report and Order at para. 16.

The Commission based its findings in part on the comments of RCA, which recounted why the billing requirements would not uncover slamming or cramming, and why, under the detailed billing proposals, CMRS providers would be required to disclose and organize information they did not possess.

Typically, RCA members bill only for services they provide, primarily airtime service. Because RCA members typically do not bill for other local or long-distance providers, their service bills, regardless of format, will not uncover "slamming". . . . Moreover, because RCA members provide a limited number of services, all of which are clearly articulated on their bills, "cramming" . . . also is not an issue.<sup>5</sup>

These comments remain accurate. RCA members continue to bill for the limited services they provide. And as the Commission noted in its FRO, "because CMRS carriers are excluded from equal access obligations, . . . CMRS carriers will seldom need to indicate a new long distance service provider on the bill."<sup>6</sup> For these reasons, the detailed billing requirements at issue remain inapplicable to CMRS providers.

The Commission also seeks comment on the procedural issue of whether it is more reasonable to exempt CMRS carriers from additional billing requirements or to apply forbearance to this class of carriers. Given that the record supported and continues to support exemption, it would appear that a formal forbearance analysis would be redundant and require a dedication of both Commission and industry resources which would yield a result with no appreciable differences. Accordingly, RCA supports continued exemption as the appropriate procedural solution.

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<sup>5</sup> RCA comments dated November 13, 1998 at p. 2 (emphasis in original).

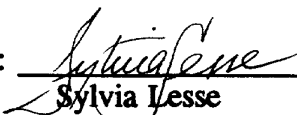
<sup>6</sup> First Report and Order at para. 16.

## **CONCLUSION**

The factual and legal bases for the Commission's earlier decision not to apply its detailed truth-in-billing rules to CMRS providers remain valid. Moreover, application of these rules to CMRS providers will not serve the public interest because they will not uncover slamming and cramming practices. Furthermore, the requirements are impractical as applied to CMRS because CMRS providers lack the information the rules require them to disclose. Accordingly, the Commission should not impose the detailed billing requirements on CMRS providers.

Respectfully submitted,

**THE RURAL CELLULAR ASSOCIATION**

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